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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/987,672

11/15/2001

Toshiaki Koue

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EXAMINER

JUNG, DAVID YIUK

ART UNIT

PAPER NUMBER

2434

MAIL DATE

DELIVERY MODE

02/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/987,672	Applicant(s) KOUÉ ET AL.	
	Examiner David Y. Jung	Art Unit 2434	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12/4/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/4/2008; 9/17/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

CLAIMS PRESENTED

Claims 1-15 are presented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Notification of Reason for Refusal, Reference Number FE00-01520, Dispatch Number: No. 434155, Dispatch Date November 22, 2005 (cited by Applicant).

This “Notification” seems to note that the claims must be rejected over a “Cited document 1.” This “Cited document 1” is not clearly identified by Applicant or by the “Notification.” Thus, the USPTO cannot know the specific basis of the rejection. Nevertheless, the USPTO does know that Applicant has cited the “Notification” which states that the claims are not patentable. Furthermore, Applicant seems to assert that this “Notification” comes from a source that Applicant asserts as reputable and authoritative. Thus, the USPTO has no reasonable choice but to treat this “Notification” (regardless of date stated on the “Notification”) as evidence of the prior art as noted by Applicant. Hence, “Notification” is suitable for analysis under 35 USC 102.

Art Unit: 2434

Before prosecution can proceed, the USPTO needs more information. At the minimum, the USPTO requests:

(1) certified translations instead of machine translations of foreign documents;

and

(2) specific identifications of documents mentioned in the "Notification." For

example, is JP-A-11-157534 same as "document 1"? Why does the

"Notification" state that the record is not a component of reason for refusal?

Why is the JP-A-11-157534 not a component of reason for refusal?

Conclusion

The art made of record and not relied upon is considered pertinent to applicant's disclosure. The art disclosed general background.

Points of Contact

Any response to this action should be mailed to:

Commissioner for Patents

Alexandria, VA 22313.

or faxed to:

Art Unit: 2434

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Jung whose telephone number is (571) 272-3836 or Kambiz Zand whose telephone number is (571) 272-3811.

/David Y Jung/

Acting Examiner of Art Unit 2434

David Jung

David Jung

Patent Examiner

2/17/09